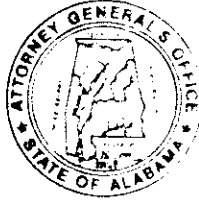


# OFFICE OF THE ATTORNEY GENERAL

85-00520



CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

SEP 20 1985

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Honorable Christine Clifton  
Town Clerk  
Town of Castleberry  
P. O. Box 97  
Castleberry, Alabama 36432

Municipalities - Fire  
Departments - Funds

Municipal funds cannot be used  
to purchase supplies and  
equipment for the Castleberry  
Volunteer Fire Department  
without the knowledge and  
consent of the town council

Dear Ms. Clifton:

The Attorney General received the request for an opinion by the Town of Castleberry as to whether municipal funds may be used to purchase equipment and supplies for the Castleberry Volunteer Fire Department without the knowledge and consent of the Town Council. In a telephone conversation you clarified this question by stating that the town council wishes to know if the mayor of the Town of Castleberry can pay for equipment and supplies for the volunteer fire department with municipal funds without the knowledge and consent of the town council.

Your question is to be answered in the negative.

The following facts were set out in a letter accompanying the resolution requesting the opinion:

"The Castleberry Volunteer Fire  
Department is a complete and separate  
function or organization from that of

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Town Clerk  
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the Town of Castleberry in that it has its own officers, fund raising efforts, bank accounts and controls all of its own activities. The Town Council has no input or authority concerning the Fire Department.

However, in an effort to assist the Fire Department the Town allows an old water reservoir to be used as a fire house and the Town office is used for meetings. The Town also pays the gasoline, electrical and insurance expenses of the Fire Department. The Town of Castleberry has never recognized or sanctioned the Castleberry Volunteer Fire Department."

Code of Alabama 1975, Section 9-3-18 authorizes a municipality to donate funds, property, equipment or other things of value to an organized volunteer fire department.

Except as otherwise provided, the city council is vested with the duty to manage and control finances and all personal and real property belonging to the city. Code of Alabama 1975, Section 11-43-56; Edwards v. First National Bank, Brewton, Alabama 377 So.2d 966 (Ala. 1979). Further regarding the control of a city council over city finances, the following quote is taken from an opinion of the Attorney General to Honorable Earl C. Cannon, Mayor of the Town of Berry dated November 2, 1977:

"The council has management and control of finances unless otherwise provided by statute as stated in Section 11-43-56, Code of Alabama 1975. Exceptions to the above Section are routine recurring expenses which are necessary for the operation of the city, payments on contracts approved by the council by resolution or ordinance, and payment on principal and interest on bond or warrant issues. It is the opinion of this office that the council has the authority to approve or

Honorable Christine Clifton  
Town Clerk  
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disapprove paying of claims outside the  
above-listed exceptions. Of course,  
they must abide by all contracts which  
they have adopted and should act  
honorably in paying claims."

Therefore, in answer to the question presented by the  
Town Council of Castleberry, it is the opinion of the  
Attorney General that municipal funds cannot be used to  
purchase supplies and equipment for the Castleberry Volunteer  
Fire Department without the knowledge and consent of the town  
council.

If our office can be of assistance to you in the  
future, please let us know.

Sincerely,

CHARLES A. GRADDICK  
ATTORNEY GENERAL

BY:

A handwritten signature in cursive script, reading "Lynda Knight Oswald".

LYNDA KNIGHT OSWALD  
ASSISTANT ATTORNEY GENERAL

CAG:lo:w